

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Criminal Application No.578 of 2024

**Prabhakar Raghav Patil & Ors. ... Applicants.
Vs.**

The State of Maharashtra & Ors. ... Respondents.

Mr Amit Icham for the applicants.

Mr Ashok Gawai, APP for respondent/State.

Coram : R. N. Laddha, J.

Date : 2 May 2024.

P.C. :

Heard Mr Amit Icham, learned Counsel for the applicant and Mr Ashok Gawai, learned APP for the respondent /State.

2. In the present application filed under Section 482 of the Code of Criminal Procedure, 1973, the applicants have prayed for the quashing and setting aside the order dated 18.03.2024, passed by the learned Additional Sessions Judge, Alibaug at Raigad, in Criminal Revision Application No.16 of 2021.

3. The applicants/accused face allegations related to land

bearing Gat Nos.251 and 257 in village Awas. Although this land originally belonged to the villagers, the applicants proceeded to execute an unauthorised lease agreement with the MSEB and included their names in the 7/12 extract for this land. Additionally, they are accused of forging a resolution dated 26.12.2009 that appointed them as part of a 'panch mandal'. The purported signatures of Vijay Rane, Kundan Ekar, and Yashwant Rane on this resolution were also forged. Furthermore, the accused entered into a lease deed for this land with the MSEB, on a nominal amount of Rs.1 for 99 years. These actions allegedly caused financial loss to the villagers.

4. After reviewing the complaint and the accompanying documents, the learned Magistrate directed the police to investigate the offence u/s 156(3) of CrPC on 20.10.2021. Subsequently, the aggrieved applicants filed a revision application before the Sessions Court, challenging the order issued in the present criminal case. Upon examination of the application and the documents annexed therewith, it reveals that respondents No.2 to 9 filed Regular Criminal case No.98 of 2021 before the Chief Judicial Magistrate at Raigad, Alibaug. They sought directions to investigate the matter, u/s

156 (3) CrPC. The learned Magistrate, by an order dated 20 October 2021, called for a report from the concerned police station. It is an admitted position in law that the Magistrate has the discretion to either take cognizance of the complaint u/s 200 CrPC or defer the issuance of process against the accused. Additionally, the Magistrate may choose to enquire into the case personally u/s 202 CrPC or direct the police to conduct an investigation u/s 156 (3) CrPC. The discretion lies with the Magistrate, who must be satisfied that the complaint discloses a cognizable offence and that police investigation is necessary.

6. In the present case, the complaint alleges that accused No.3 to 6 falsely inserted themselves as panchas without the villagers' meeting and fraudulently entered their names in the 7/12 extract. The signature of Vijay Rane on the application submitted by the accused persons on 20.07.2009 to the sub-divisional officer, Alibaug, is suspected to be forged and fabricated. Similarly, the resolution dated 26.12.2009, appointing the accused as panchas, is also believed to be based on falsified documents. The accused, in collusion with each other, unlawfully leased out a portion of land owned by the villagers for an annual rent of Rs.1. The complaint *prima faice*

indicates the commission of cognizable offence and warrants investigation by the police. Hence, there is no infirmity in the impugned order. Resultantly, the criminal application stands dismissed.

[R. N. Laddha, J.]